

Adobe Heights Right-Of-Way for Residential Access

**Adobe Heights Limited Partners
ROW in MDM, T.35N, R.54E, Section 36
Elko County, Nevada**

Finding of No Significant Impact

**DOI-BLM-NVE020-2010-0009-EA
2800 (NVE0200)
Serial No. NVN-086131**



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July 2012

Background

Adobe Heights Limited Partners (the Applicant), has applied for a right-of-way (ROW) across public lands to construct an access road. The purpose of the Applicant's Proposed Action is to provide access to a proposed single-family residence on a 41-acre lot in a platted subdivision. Accessing the residence from public land would minimize new disturbance by utilizing an existing access road and two track road and would avoid construction on steep slopes and across streambeds and drainages. The Proposed Action is needed to access private land from an existing access road.

The BLM's purpose and need would be to process, review, and respond to the Applicant's proposed access road under applicable laws and regulations including the Federal Land Management Policy Act of 1976, the National Environmental Policy Act (signed January 1, 1970), and the BLM's regulations concerning Rights-of-Way at 43 CFR 2800. Should BLM determine that a grant authorization would be appropriate in these circumstances, the BLM must also determine what, if any, stipulations, conditions of approval, and performance bonds should be attached to the grant. Should a grant be authorized, then the BLM's purpose and need becomes an obligation to ensure compliance with applicable laws and requirements during construction and operation, avoidance of undue and unnecessary degradation of the public lands during and following the project lifespan, and to ensure adequate reclamation of the public lands for future productivity.

The decision to be made by the BLM's Tuscarora Field Office would be whether or not to authorize a ROW grant on public land along the proposed alignment for the construction and maintenance of the proposed road, or to select the No Build alternative by denying the application. If a decision is made to authorize the Proposed Action, then the decision would also determine whether the ROW should be issued as defined by the Applicant or as defined in the alternative identified as Option A, as well as address what stipulations and conditions of approval should be attached to the grant, if any.

Land Use Plan Conformance

The proposed action conforms to the Elko Resource Management Plan (ERMP), as approved March 11, 1987. The proposed access road is located within a designated corridor as shown on Map 3 of the ERMP. By utilizing existing county roads and non-exclusive access ROWs to the maximum extent possible, the Proposed Action is consistent with the intended purpose of minimizing adverse environmental impacts and the proliferation of separate rights-of-way.

The ERMP objectives are consistent with the objectives of the BLM's rights of way program as defined in 43 CFR 2801.2, to wit:

It is BLM's objective to grant rights of way under the regulations in this part to any qualified individual, business, or governmental entity and to direct and control the use of rights-of way on public lands in a manner that:

- a. Protects the natural resources associated with public lands and adjacent lands, whether private or administered by a government entity;*
- b. Prevents unnecessary or undue degradation to public lands;*
- c. Promotes the use of rights of way in common considering engineering and technological compatibility, national security and land use plans; and*
- d. Coordinates to the fullest extent possible, all BLM actions under the regulations in this part with state and local governments, interested individuals, and appropriate quasi-public entities.*

The Proposed Action would be consistent with the plans and policies of neighboring local, county, State, tribal and federal agencies and governments. Specifically, the proposed project would serve the goals of the Nevada Statewide Plan for Public Lands as adopted in 1986, as well as would be consistent with the Elko County Public Lands Policy Plan prepared in 2008.

Finding

I have reviewed Environmental Assessment DOI-BLM-NVE020-2010-0009-EA (the EA), dated June 2012. After consideration of the environmental effects as described in the EA and incorporated herein, I have determined that the Proposed Action, when assessed in concert with the project design features and mitigation measures identified in the EA, would not significantly affect the quality of the human environment. Therefore, preparation of an Environmental Impact Statement (EIS) is not required.

I have determined the Proposed Action is in conformance with the Elko Resource Management Plan and is consistent with the plans and policies of neighboring local, county, state, tribal and federal agencies and governments. This finding and conclusion is based on my consideration of the Council on Environmental Quality's (CEQ) criteria for significance (40 CFR 1508.27), both with regard to the context and the intensity of impacts described in the EA.

Context: The proposed ROW is located in a designated corridor that follows a main transportation route northwest of the City of Elko. If completed, the project would establish legal access across public land to a large-acre lot in a platted subdivision.

Prior to submitting a ROW application to BLM and after discussing various concerns with BLM staff, the Applicant considered and rejected potential alternative routes because of a desire to:

- utilize an existing ROW and two-track road to the maximum extent possible in order to minimize additional surface disturbance;
- avoid water resources and drainage ways to minimize the risk of erosion and water quality deterioration during construction, maintenance, and daily use; and
- locate the alignment of the road on the most level areas possible to avoid the detrimental effects associated with disturbing steep slopes and to reduce visibility from offsite.

No other alternative routes have been suggested that would meet the Applicant's or the BLM's purpose and need for the project while lessening the impact on the resources identified. Design features have been incorporated into, and mitigation measures have been identified for the Proposed Action and Option A to avoid or minimize disturbance to resources within and near the project area.

Intensity:

1) *Impacts that may be both beneficial and adverse.*

Both beneficial and adverse impacts of the construction, use, maintenance, and termination of the proposed access road were considered in the EA. The evaluation of the Proposed Action and Option A included an examination of the general setting, identification of the critical elements and other affected resources and uses of concern in the vicinity of the proposed project, a description of the affected environment, and a prediction of the associated environmental consequences.

2) *The degree to which the Proposed Action affects public health or safety.*

Implementation of the Proposed Action or Option A would not result in potentially substantial or adverse impacts to public health and safety. Human environmental elements that are not present in the proposed ROW include floodplains, wetlands and riparian areas, prime or unique farmlands, wild and scenic rivers, wilderness, and areas of critical environmental concern (ACECs). No hazardous materials or solid wastes are associated with the proposal with the exception of a negligible amount of construction-related fuels, construction-related debris, and prescribed use of herbicides, all of which would be subject to controls imposed through mitigation measures identified in the EA. Design features and mitigation measures were identified in the EA and would be made a condition of the grant for any public health and safety elements associated with any potentially affected resource. These would include dust control measures to protect air quality, erosion control measures to prevent undue degradation of surface water quality and drainage ways, weed control and revegetation measures to repair and prevent damage to soils and wildlife habitat.

3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

The project area is not considered an ecologically critical area. It is outside of areas preliminarily identified as prime habitat for sage grouse. It does not contain park lands, prime farmlands, or wild and scenic rivers, and would not impact any perennial streams, intermittent/ephemeral streams, wetlands, water quality, or floodplains. Based on soil survey information and similar construction activity recently conducted in the area, neither the Proposed Action nor Option A would be expected to affect groundwater resources.

The proposed project would be located within an area designated as Interim Visual Resource Management Class IV, the main objective of which is to provide for management activities which require major modifications of the existing character of the landscape. The level of change to the characteristic landscape can be high, may dominate the view and may be the major focus of viewer attention. Efforts to minimize the impact of the proposed project are evident in that the proposed road would be located to avoid highly visible slopes and would utilize gravel surface material. Option A further minimizes visual impacts by reducing the width of the proposed road.

The Proposed Action would result in new disturbance and dislocation of vegetation on approximately 1.81 acres of public land and utilize 0.88 acres of an existing road on public land. The vegetation type that predominantly exists within the proposed roadway is native shrub plant community mixed with grasses and forbs in the understory. Implementation of the design features and environmental protection measures identified in Sections 2.2.2 and 3.3.3 of the EA, including re-seeding and rehabilitation of cleared areas, would minimize loss of vegetation.

No impacts to cultural resources are associated with the Proposed Action or Option A. Multiple cultural inventories have been completed in the area and in only two inventories were cultural resources located, neither of which were eligible for the National Register of Historic Places. In addition, the proposed ROW area is highly disturbed due to prolonged use as a two-track road. The project is not within a known Traditional Cultural Property and prior consultations with the Western Shoshone regarding other projects in or near the proposed ROW area have not identified any specific Native American concerns.

4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

The proposed ROW would provide access to an existing platted lot of the Adobe Hills subdivision located in an area known as Adobe Hills immediately northwest of the City of Elko. This area has attracted substantial residential development over the past 25 years due to its combination of rural scenery, recreational opportunities, and proximity to both urban amenities and natural recreational opportunities. The proposed ROW would not interfere with other land uses or prevent existing access to public or private lands. The proposed ROW utilizes existing disturbed surfaces to minimize impacts, and is consistent with the Elko Resource Management Plan as well as state and local plans and policies regarding management of public lands.

5) *The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.*

There are no known or possible effects identified in the EA which are considered uncertain or involve unique or unknown risks. All construction methods proposed to be employed would utilize and conform to accepted standard practices.

6) *The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The Proposed Action does not establish a precedent for future actions with significant effects and does not represent a decision in principle about a future consideration. All future access road ROW projects, if they occur, would be subject to the same environmental assessment standards and independent decision making.

7) *Whether the action is related to other actions with individually insignificant but cumulatively significant impacts.*

Historic activities in the cumulative effects study areas (CESA) have included linear and site-specific ROW activities (e.g., roads, power lines and electric substations), grazing, recreation, wildfire suppression and burned area rehabilitation activities associated with three wildfires, and oil and gas exploration. Reasonably foreseeable future actions include continuation of housing development, recreation, livestock grazing, wildfires and burned area rehabilitation, oil and gas exploration activities, and other linear ROW activities typically associated with corridors and urban fringes. These types of projects and activities, seen together with other on-going land disturbing activities in the area, are not expected to result in cumulatively significant impacts at the local or watershed scale on land use, air quality, surface and ground water quality, soils, vegetation and noxious weeds, livestock grazing, and wildlife, including special status species and migratory birds.

8) *The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP or may cause loss or destruction of significant scientific, cultural, or historical resources.*

There are no districts, sites, highways, structures, or objects listed in or eligible for listing in the NRHP located within the project area. The proposed ROW is not associated with the potential threat of loss or destruction of significant scientific, cultural, or historical resources.

9) *The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the ESA of 1973.*

The county species list provided by the USFWS has been reviewed and the Proposed Action has undergone consultation and coordination with the Nevada Department of Wildlife and the Nevada Natural Heritage Program. The proposed ROW is located in an area that provides crucial mule deer winter range and pronghorn intermediate range with use also occurring during moderate to extreme winter conditions. The impacts to sage-grouse are likely to be nominal. The area surrounding the proposed ROW was designated as “Low Value Habitat – Transitional Range” for sage grouse by NDOW in March 2012 (equivalent to BLM’s “Preliminary General Habitat”). Although some intact habitat would be affected, sage grouse are unlikely to inhabit the proposed ROW area due to their typical avoidance of areas with overhead power lines. Finally,

mitigation measures as identified in Section 3.4.4 of the EA would be implemented to prevent any adverse direct or indirect impacts on pygmy rabbits, mule deer, pronghorn antelope, sage grouse, and migratory birds, and their respective critical habitats.

10) *Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.*

The Proposed Action will not violate or threaten to violate any Federal, State, or local law or requirement imposed for the protection of the environment.

Gerald Dixon
Manager
Tuscarora Field Office, BLM

Date